

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

FILED

APR 22 2024

CLERK, U.S. DISTRICT CLERK
WESTERN DISTRICT OF TEXAS
BY DEPUTY

UNITED STATES OF AMERICA,

:

Plaintiff,

: No. 1:23-cv-00853-DAE

v.

:

GREG ABBOTT, in his capacity as

GOVERNOR OF THE STATE OF TEXAS,

and THE STATE OF TEXAS,

April 17, 2024

Defendants.

:

**MOVANT ROBERT A. HEGHMANN'S MEMORANDUM OF LAW IN SUPPORT
OF HIS MOTION FOR DECLARATORY JUDGMENT AND PETITION FOR A WRIT
OF ERROR *CORAM NOBIS***

PRELIMINARY STATEMENT

This Attorney has known since June, 2014, that the Obama Administration was guilty of Crimes against Humanity, Humanity being the American People, and Genocide against Republican families in suburban and rural voting areas. Unfortunately, this attorney does not have Standing to challenge these international crimes. I first tried to get around the Standing barrier by intervening in an ongoing federal lawsuit, *Texas v. Biden*, No. 04:21-cv-00579-P. If you want a quick read as to why I am comfortable alleging Crimes against Humanity and Genocide, go to my Intervening Complaint and 10 accompanying Exhibits, Dkt. No. 55. Although the Government moved to dismiss (Dkt. #60) to which I responded (Dkt. #66), the Judge was sufficiently impressed with my presentation that he did

not dismiss the Intervening Complaint. Unfortunately, Texas could not sustain its allegations and withdrew its Complaint whereupon my intervention became moot.

I have continued to seek a vehicle to make a case against the Obama Administration and now the Biden Administration. I believe I have found it in this case where I have filed a Petition for Writ of Error *Coram Nobis* raising the issues I attempted to raise in *Texas v. Biden*.

The Supreme Court's decisions in *Biden v. Texas*, 597 U.S. (2022) and *U.S. v. Texas*, 599 U.S. (2023) was wrongly decided. This is not a criticism of the Court. It is a recognition that a corrupt Department of Homeland Security (hereinafter "DHS") intentionally deceived the Court and the Solicitor General failed to challenge her client and do her own investigation. As result, starting in August of this year those wrongful decision will cause at least 1,500 children to be struck with Polio. Of those struck, at least 12 will die. Further, so many children will be infected by the D 68 Virus that the Nation will not have enough hospital beds to treat them.

STANDING OF THE MOVANT

This attorney has filed a Petition for Writ of Error *Coram Nobis* in this case raising issues in support of Governor Abbott's creating the Southern Border barriers to prevent illegal immigrants from entering the state. Under the Rules of Procedure of the 5th Circuit citing F.R.A.P. 4 (a)(1)(C), the granting or denial of a Petition for Writ of Error *Coram Nobis* in a civil case is an appealable order.

Therefore, this Movant has standing to appear in this Court both by Petition and at trial.

JURISDICTION OF THE COURT

The concept that federal common law may support federal question jurisdiction when the claim brought necessarily involves international law and relationships between the United States and a foreign sovereign is well settled and, indeed, is set forth in Section 111 of the Restatement (Third) of the Foreign Relations Law of the United States. In pertinent part, Section 111(2) states that “Cases arising under international law or international agreements of the United States are within the Judicial Power of the United States and, subject to the Constitution and statutory limitations and requirements of justiciability, are within the jurisdiction of the federal courts.”

Federal courts have found federal question jurisdiction to exist with regard to issues of international law and international relations even when the plaintiff’s complaint alleges only claims based on state law. For example, in *Republic of Philippines v. Marcos*, 806 F.2d 344 (2d Cir. 1986), the government of the Philippines brought an action in New York state court against Ferdinand Marcos, the deposed dictator of the Philippines, to attach certain properties in New York that were alleged to have been purchased by Marcos with funds of the people of the Philippines. The court noted that the complaint, on its face, was brought under a state law theory of “conversion, requiring the imposition of a constructive trust or equitable liens upon the ‘ill-gotten’ gains.” The court nevertheless held that,

under the plaintiff's well pleaded complaint, international relations were sufficiently implicated to support federal jurisdiction, This case involves both international treaties and the right of Texas to control its own border. Therefore, international relations are sufficiently implicated to support federal jurisdiction.

**INTERNATIONAL LAW IS AT THE CENTER OF THIS CONTROVERSY
INCLUDING, BUT NOT LIMITED TO, THE CONVENTION ON THE
PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE**

The Movant in this action alleges that the administrations of Barrack Obama and Joseph Biden are guilty of Crimes against Humanity and Genocide. These allegations are based upon violation of rights guaranteed by the Convention on the Prevention and Punishment of the Crime of Genocide, art.2, December 9, 1948, 78 U.N.T.S. 277, (hereinafter "the Convention") The United States signed the Convention on December 11, 1948 and ratified it on November 25, 1988. The Obama and Biden Administrations are charged under Art. II, Secs. (a) (b)and (c). The acts complained of are set forth in Art. III, Sec. (a) and (b). Venue in State courts is established in Article VI.

The Movant also alleges violations of International Law, more particularly the Rome Statute of the International Criminal Court (hereinafter "the Rome Statute") which states that the elements of a crime against humanity is commission of any of the enumerated acts when committed as part of a widespread or systematic attack directed against any civilian population. Rome Statute Art. 7.1. An "attack" directed against any civilian population" is a course of conduct "pursuant to or in furtherance of a State or organizational policy to commit such

attack” *Id.* Art. 7.2 (a). Although the United States has not ratified the Rome Statute, it sets standards of International Law which will guide the Court in these proceedings. This Motion alleges acts of Crimes Against Humanity as set forth in Article 6 (a), (b) and (c) and at Article 7 (a), (g), (h) and (k) of the Rome Statute. The civilian population which is the target of the attacks described here in is the American suburban and rural population which, as the Obama and Biden Administrations well knew, is largely Republican.

As an attack on a national party, herein the Republican Party, the Crimes against Humanity set forth below have since 1963 qualified as Genocide. *See Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed on the Territory of the Former Yugoslavia*, Article 4 (2) (a) and (b), 25 May 1993. In this case, the intent of the Obama and Biden Administrations to continue to engage in Genocide and Crimes against Humanity can be fairly inferred from the intentional actions continued after the initial outbreak of the EV D 68 Virus and Polio in the United States in October, 2014 and the recent repeal of the Remain in Mexico Protocol. Instead of discontinuing their actions, the Defendants continued their attacks and conspired to mislead the American People as to the true cause of Polio re-appearing in the United States after the Sabin I Vaccine eliminated Polio 50 years ago.

THE CRIMES AGAINST HUMANITY AND GENOCIDE

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- a. Killing members of the group;
- b. Causing serious bodily or mental harm to members of the group See Definition: Convention on the Prevention and Punishment of the Crime of Genocide attached as Exhibit 1.

Since June, 2014, the Obama and Biden Administrations had been engaged in a Crime against Humanity and Genocide as defined by the Convention. The Administrations' crime consisted of distributing a virus known as EV D 68 being carried from Latin American countries across the U.S. Border and then distributing the virus into Red States and Red election districts in otherwise Blue States. The Virus was carried into the United States by Unaccompanied Minor Children (hereinafter "UMC") from several Latin American countries. The D 68 Virus attacks the American suburban and rural population in two ways. First, the virus attacks the respiratory system. In Latin American countries, the population had gotten "herd immunity" years ago. But this virus was virtually unknown in the United States prior to 2014. As a result, after the first release of the virus in June, 2014, Americans, especially children under the age of 6, became desperately ill by the thousands. As will be discussed below, the rate of infections became so bad that in 2022 children's hospitals and pediatric wards in general hospitals almost ran out of beds needed to treat the children.

In addition to attacking respiratory systems, the D 68 virus contains two strains of Polio not blocked by the Sabin 1 Polio vaccine. When American children with certain generic deficiencies come in contact with the Virus, it attacks nerve centers located within muscles in arms, hips or the central nervous system. These children lose the use of their arms or legs except when the virus attacks the central nervous system in which case the children are totally paralyzed.

The virus remains dormant within the UMC's for approximately 16 months each year. Every other year the Virus "spikes" between the months of June and the following January. Thus, beginning in 2014, the virus attacked American children and some adults in 2014, 2016 and 2018. During these years, thousands of American children were paralyzed while dozens died.

STATEMENT OF FACTS

The open Southern Border has nothing to do with the interests of the United States. It has everything to do with the political power of the Democrat Party. Prior to the election of Barack Obama as President, the Democrat Party determined that if an election district - a Congressional District, a state legislative district or a city municipal district - was 16% or more foreign born, the Democrat Party had a 90% chance of winning the election in that district. Thus, the decision was made that as soon as Barack Obama was elected President, he would use the office of the President to open the Southern Border and flood the U.S. with foreign born persons.

The process began with the annual budgets for the U.S. Obama as his first order of business, proposed a budget for Fiscal Year 2010 which borrowed \$1.75 Trillion under Article I, Sec. 8, cl. 2 for spending under Article I, Sec. 8, cl. 1. As the Constitutional Scholar and former

Editor in Chief of the Harvard Law Review well knew, that budget was unconstitutional. See *Heghmann v. Geithner*, Supreme Court Docket No. 10 1155 (Petition for Writ of Certiorari denied) (The Movant knew the Budget was unconstitutional and tried to stop the spending but his District Court case was dismissed for lack standing.) However, since the Democrats held the House and 60 votes in the Senate, the budget passed. Obama would subsequently borrow another \$1.0 Trillion in the Budget for F.Y 2011.

Since these borrowed funds were raised outside the budget process, they represented a private stash for the Democrats under Obama. They used the funds to create an entirely new government, one designed to bring in millions of foreign-born persons from across the Southern Border and distribute the foreign-born persons geographically into Red States, Red Congressional Districts and state legislative districts in Blue States. The primary federal agencies in charge of immigration are listed in Exhibit 2. They received the bulk of the \$2.75 Trillion.

The number one target was always Texas. While other Red States would receive many UMCs, Texas was at the top of the list. If Texas was turned blue, all of the others would soon follow. What was true in 2014 is true today as the article Soros-Funded Group Seeks to “Turn Texas Blue” with Mass Immigration, John Binder, Breitbart News, June 20, 2023 attached as Exhibit 3 proves. This article lays out the strategy for open borders.

Launch date was scheduled for June, 2014. As the launch date approached, someone in the Obama inner circle suggested that a study be done of potential migrant children who would be targeted for transfer into the U.S. to see what illness they may bring with them. Obama agreed and Navy Medical Unit #6 based in Lima, Peru was selected to do the study. The link between EV D 68 and Latin American children was established in a peer-reviewed medical article

published in Virology Journal on October 11, 2013 titled Human rhinoviruses and enteroviruses in influenza-like illness in Latin America which attached in part (first three pages) as Exhibit 4. It was written by a team of virologists headed by Josefina Garcia, U.S. Medical Unit #6, who worked with the Fogarty International Center at the National Institutes of Health in Bethesda, Maryland.

In the 2013 study, Garcia and her medical associates collected 3,375 nose and throat swab samples from subjects under 8 years old with a median age of 3 years. They found that human enteroviruses (HEV), including EV-D68, was discovered in 3 percent of the samples while the related human rhinoviruses (HRV) was found in 16 percent of the samples. The study also concluded that there was little doubt that EV-D68 was transmitted through poor bathroom hygiene. A typical example cited is an infected doorknob that could transmit a virus to healthy children for the next three to five days after being touched by an infected UMC. A secondary possibility of transmission is via the respiratory “oral-to-oral” route more likely to occur in crowded living conditions such as schools and play grounds.

The authors of the study, who knew nothing of the Obama Administration’s plan to release thousands of UMCs into the United States, concluded, “In Latin America as in other regions, HRVs and HEVs account for a substantial proportion of viruses identified in young people with ILI (influenza-like illness), a finding that provides additional support for the development of pharmaceuticals and vaccines targeting these pathogens.” What the authors could not foresee was that millions of UMCs were about to be released into the U.S.

EV D 68 is not native to the U.S. It was unclear what the impact of the virus would have on the American people. More importantly, Unit #6 found that in a certain percentage of the

children carrying the D 68 virus, there were two strains of Polio. See Exhibit 4 at 3. While this could certainly be a threat to Americans, especially children, it was not known if the Sabin 1 vaccine administered to infants would protect American children from the two strains of Polio.

While the medical report was disturbing, the Obama Administration had gone beyond the point of no return. The \$2.75 Trillion had been borrowed, the government bureaucrats had been assembled and, more importantly, 10,000 UMCs were sitting at the Mexican border ready to enter the U.S. See Obama Approves Plan to Let Children in Central America Apply for Refugee Status, Michael D. Shear, On Politics with Lisa Lerer, September 30, 2014 attached as Exhibit 5 at 1. Obama gave the green light and soon the Obama Administration began the release of 55,000 illegal immigrants between June, 2014 and January, 2015. Once again, Texas was at the top of the list. See Texas tops list of states where this year's unaccompanied child migrants ended up, Jens Mandel Krogstadt and Ana Gonzalez-Barrera, Pew Research Institute, December 11, 2014 attached as Exhibit 6. The Court will notice what the organizational effect of \$2.75 Trillion will get you. Not only do 10,000 UMCs arrive on schedule at the Southern Border but lead by the DHS they are immediately swept away to their designated locations in the Red States and Red Congressional Districts in Blue States. Don't you just love it when a plan comes together?

After seeing how well Pew Research organized and presented the data on where UMCs were being sent, the Administration decided not to tell anyone, not even Congress, where illegal aliens were being sent. See Biden's DHS Refusing to Disclose where in U.S. Illegal Aliens are Being Sent, John Binder, Breitbart News, August 11, 2021 attached as Exhibit 7. What is DHS hiding. The proof that they are using Illegal Aliens to turn Red States like Texas Blue. See Exhibit 3, *supra*.

i The Biden Administration is Committing a Crime against Humanity.

As stated, D 68 is not native to the U.S. However, beginning in 1962 cases of D 68 infection were seen mainly in California and Colorado in persons who traveled to China or the Asian Pacific Rim on business or pleasure. The persons infected suffered only mild, flu-like symptoms. There were only 26 isolations of the D 68 virus between 1970 and 2005. Between 2005 and 2014, there were only one or two cases reported each year.

Once the release of illegal immigrants began in June, 2014, cases of D 68 virus appeared almost immediately. From mid-August 2014 to January 15, 2015, CDC or state public health laboratories confirmed 1,395 cases in 49 states and the District of Columbia with respiratory illness caused by EV-D68. Almost all of the confirmed cases were among children, many whom had asthma or a history of wheezing. Despite this proof that the D 68 virus in the U.S. would only increase, first the Obama Administration and now the Biden administration has only continued to release illegal immigrants into the U.S. In 2022, the outbreak of the D 68 virus was so great that children's hospitals and pediatric units in general hospitals began to run out of beds to treat children. See [Doctors say RSV is hitting toddlers hard this year as sick kids line up for hospital beds across the US](#) attached as Exhibit 8. In Connecticut, the crisis got so bad medical authorities considered asking state military medical units to set up beds next to hospitals so that the children could be treated. See [Children's hospital flooded with RSV patients considers asking National Guard for help](#), Caroline Kee, TODAY, October 20, 2022 attached as Exhibit 9.

Nor are the children suffering flu-like symptoms. Young children including infants required tubes be inserted into their throats in order to get oxygen into their lungs. Now, 2024 is a surge year for the D 68 virus. Starting this June, children will begin arriving at children's

hospitals. This year, there will not be enough beds to care for all of the children who need hospitalization. Nevertheless, the Biden Administration continues to keep the Border open.

In order not to link the explosion in children's serious respiratory illness to D 68, the Centers for Disease Control and Prevention (hereinafter "C.D.C.") invented a new term, respiratory syncytial virus or RSV. Despite evidence to the contrary, the C.D.C. denied a causal link between the surge of illegal-alien children from Latin American and the D 68 outbreak in the U.S. See DC Denies Enterovirus link to Illegal-Alien Kids, Jerome R. Corsi, World News Daily, 10/15/2014 attached as Exhibit 10. As you can see, \$2.75 Trillion can buy you a lot of corruption. To this day, the C.D.C. denies the link between the open Border and the D 68 virus.

ii. The Biden Administration is Guilty of Genocide

For 70 years, the Sabin 1 Vaccine eliminated Polio from the U.S. When the Navy Medical Unit #6 reported that Latin American children were carrying D 68 which contained two strains of Polio, the Obama Administration decided to gamble and release the 10,000 children assembled at the Mexican Border into the U.S. In all, the Obama Administration released 56,000 illegal immigrants into the U.S. between June 2014 and January 2015. As planned, these 56,000 immigrants were distributed to 49 states and the District of Columbia. See Exhibit 6, *supra*. The state which received the most illegal immigrants was Texas which received 7,000.

It did not take long to determine whether or not the Sabin 1 vaccine protected children from the strains of Polio contained in the D 68 virus. Within five months, doctors across the country were treating cases of Polio-like syndrome. See The Mysterious Polio-Like Disease affecting American Kids, Dan Jurley, October 24, 2014 attached as Exhibit 11. Once again, the C.D.C.

stepped in to prevent D 68 from being accused as the cause of the new Polio. The C.D.C. coined another new name, Acute Flaccid Myelitis or AFM, as the cause of the new Polio. This new name took hold almost immediately. See Enterovirus Blamed for Polio-like Acute Flaccid Myelitis in Kids, Peter Schelden, Medical Health News, 10/24/2019 attached as Exhibit 12. Between August 2014 and January 2015, 1,153 Americans, mostly children, were infected with Polio. Of these, 14 children died. These numbers were replicated in 2016 and 2018.

As discussed above, the D 68 virus “spikes” every other year. Attached as Exhibit 13 is a chart prepared by the C.D.C. that shows the “spikes” in 2014, 2016 and 2018. Also attached as Exhibit 14 is chart titled 2018 confirmed cases of acute flaccid myelitis (AFM) by state, Anne-Gerard Flynn, The Republican, December 27, 2018. By 2018, the new Polio was a national scourge being covered up by the Obama Administration, the Democratic Party and the Media.

THIS COURT MUST UNDERSTAND THE SUFFERING OF THE CHILDREN AND FAMILIES OF THOSE STRICKEN BY THE NEW POLIO

Beyond the statistics lie the children. Since 2014, I have collected dozens of news articles describing the horrors faced by the children and families of those stricken by the new Polio. For the purpose of this Motion, I have selected two such articles, They cry in their hospital beds: Mothers of two boys diagnosed with mysterious polio-like illness reveal their sons’ heart breaking struggle to breathe, move and come to terms with their paralysis, Mary Kekatos, the Daily mail.com, 1 November 2018 attached as Exhibit 15 and Parents accuse CDC of not reporting children’s deaths from polio-like AFM, Elizabeth Cohen, Senior Medical Correspondent, CNN, November 13, 2018 attached as Exhibit 16. These articles began as local news segments aired live on local T.V. The T.V. broadcasts included home videos showing the children before and after being stricken by the new Polio. The contrast was overwhelming.

One day I encountered a victim of the new Polio. While checking out at an H.E.B. food store in Georgetown, Texas, I turned around and saw a beautiful 13 or 14 year old girl. Her right arm hung uselessly from her right shoulder. She used her left hand to help her grandfather unload his cart. I desperately wanted to engage her in conversation to learn more about how she lost the use of her arm but having read as much as I have about the new Polio, I knew the psychological and emotional damage done by the new Polio far surpasses the physical damage. Imagine this lovely child on the verge of becoming a woman who was undoubtedly fearful of going to parties or dances with her arm uselessly hanging from her shoulder. I feared if I approached her, I would trigger a panic attack.

2018 – 2019

As Exhibit 13, *supra*, shows, 2018 was a disaster for the children of America. The American medical community was totally frustrated by the failure of the C.D.C. to deal with the crisis. See Acute flaccid myelitis, the polio-like syndrome leaving some children paralyzed, Maggie Fox, NBC News, October 25, 2018 attached as Exhibit 17. Frustrated, individual doctors were doing their own experiments including injecting mice with the D 68 virus. The mice showed the same effect as children. They were paralyzed. Despite this, the C.D.C. was still denying the link between D 68 and Polio. See More U.S. kids get paralyzing illness, cause is still unknown, Mike Stobbe, Associated Press, November 13, 2018 attached as Exhibit 18.

But help was in the way. Between January 2018 and January 2019, three (3) privately funded Reports by doctors and scientists identified the cause of the New Polio. The three Reports were in total agreement. EV D 68 was the cause of the new Polio. See The Association between acute flaccid myelitis (AFM) and Enterovirus D68 (EV-D68)-what is the evidence for causation?

Amalie Dyda, et. al, Eurosurveillance.org, January 18, 2018 attached as Exhibit 19, Enterovirus D68 – The New Polio? Hayley Cassidy et. al., Frontiers in Microbiology, Nov. 13, 2018 attached as Exhibit 20 and Report on the 2018 Acute Flaccid Myelitis Outbreaks in the USA, Dillon C. Adam, Global Biosecurity, February 14, 2019 attached as Exhibit 21, Even more importantly, President Donald Trump was about to tackle the Polio problem.

**PRESIDENT TRUMP STOPPED THE POLIO AND SPARED THOUSANDS OF
AMERICAN CHILDREN HOSPITALIZATION, PARALYSIS AND DEATH BETWEEN
2020 AND 2022**

As noted above, 2018 was an absolute health care disaster for American Children. Although President Trump was elected in 2016 and sworn in during January, 2017, Congress and the courts staled his efforts to immediately gain control of the Border. In fact, it was not until June 23, 2018 that President Trump could begin to exercise control of the Border. We know the date because as soon as he began to close the Border by putting up chain fences, he was attacked by the Main Street Media as a “racist”, These attacks were lead by Joe Scarborough and Mika Brzezinski of “Morning Joe”. See Joe Scarborough on defending Trump: “if you support him, you are” racist, Travis Gettys, salon.com, June 23, 2018 attached as Exhibit 22. These baseless attacks continue to this day.

Trump’s plan was two-fold. First, secure the U.S. side of the Border. He did this by empowering the men and women charged with supporting the Border. They responded brilliantly and the U.S. Side was soon secure. But President Trump knew it was even more important to get Mexico to secure the Southern side of the Border.

He did this by getting Mexico to take back illegal immigrants returned to Mexico by U.S. authorities.

The Migrant Protection Protocols (“MPP”), often called the “Remain in Mexico” policy, was a policy commenced by the Department of Homeland Security (“DHS”) in January 2019 forcing certain non-Mexican migrants—primarily asylum seekers—arriving at the southern border to remain in Mexico pending the resolution of their immigration proceedings. MPP was negotiated, agreed to and announced by the Governments of Mexico and the United States in 2018. Specifically, the Mexican Government agreed to the U.S. request that Mexico allow, on a “temporary” basis, migrants bound for the United States—including certain migrants from Guatemala, Honduras, and El Salvador—to remain in Mexico pending their immigration proceedings in the United States. The expectation when MPP was negotiated was that the Mexican Government would then arrange for the housing and logistics for tens of thousands of those migrants to live in Mexico, receive 3 lawyers from the United States, and travel to the United States for court hearings.

For American children, MPP was a God send. After the adoption of MPP, this was the result:

Acute flaccid myelitis (AFM) is a serious neurologic condition primarily affecting children; AFM can cause acute respiratory failure and permanent paralysis. AFM is a rare but known complication of various viral infections, particularly those of enteroviruses (EVs). Increases in AFM cases during 2014, 2016, and 2018 were associated with EV-D68 infection. This report examines trends in confirmed AFM cases during 2018-2022 and patients' clinical and laboratory characteristics. *The number of AFM cases was low during 2019-2022 (28-47 cases per year); the number of cases remained low in*

2022 despite evidence of increased EV-D68 circulation in the United States. Compared with cases during the most recent peak year (2018), fewer cases during 2019-2021 had upper limb involvement, prodromal respiratory or febrile illness, or cerebrospinal fluid pleocytosis, and more were associated with lower limb involvement. (emphasis added) See Surveillance for Acute Flaccid Myelitis – United States, 2018-2022, Erin R. Whitehouse, Public Medicine attached as Exhibit 22.

The analysis by Ms. Whitehurst has been confirmed by the C.D.C. The chart attached as Exhibit 13 extended from 2014 to 2018. That same chart now extended to 2021 is attached as Exhibit 24. The new chart confirms that there was no “surge” in 2020.

We began in 2014 with 1,153 Americans, mostly children, stricken by Polio. Of those, 14 children died. While the number may have gone down in 2016, the number sky rocketed in 2018. To have that number reduced to between 28 and 47 per year is a miracle, a Donald Trump miracle for the children.

**TO RECREATE THE OPEN BORDERS UNDER THE OBAMA
ADMINISTRATION, BIDEN CANCELS MPP AND OPENS THE BORDER AGAIN**

Joseph Biden was sworn in as President on January 20, 2021. On that very day he issued an Executive Order revoking President Trump’s interior immigration enforcement policy, the policy that secured the Southern Border from the American side. On February 16th Biden issued an Executive Order Reversing the “Remain in Mexico: Policy” for Asylum Applicants. In short, he was dumping the overwhelming successful MPP program and opening the Southern Border.

On October 29, 2021 released a public statement, DHS Issues a New Memo to Terminate MPP which is attached as Exhibit 25. The Court can read it if it

wishes but it is a waste of time. The time is better spent reading BRIEF OF THE UNITED STATES CONFERENCE OF CATHOLIC BISHOPS, CATHOLIC LEGAL IMMIGRATION NETWORK, INC., AND CATHOLIC CHARITIES USA AS AMICI CURIAE SUPPORTING PETITIONERS (the United States). This *Amici* Brief does what the DHS did not want to do, clearly and concisely explain what the Biden Administration wanted to do.

Secretary Mayorkas, in his second memorandum terminating MPP, stated that “costs on the individuals who were exposed to harm while waiting in Mexico” outweighed the costs to the American public of increased “migratory flows.” U.S. DEPT. OF HOMELAND SEC., TERMINATION OF MPP PROGRAM MEMO (Oct. 29, 2021). Further, in DHS’ addendum to Secretary Mayorkas’ memorandum, “Explanation of the Decision to Terminate the Migrant Protection Protocols”, the agency again asserted that Secretary Mayorkas placed certain policy preferences of the Biden Administration ahead of decreasing the number of illegal crossings at the border: 7

the Secretary has concluded that this benefit [decreasing the flow of illegal migration] cannot be justified, particularly given the substantial and unjustifiable human costs on the migrants who were exposed to harm while in Mexico, and the way in which MPP detracts from other regional and domestic goals and policy initiatives that better align with this Administration’s values...” U.S. DEPT. OF HOMELAND SEC., EXPLANATION OF THE DECISION TO TERMINATE THE MIGRANT PROTECTION PROTOCOLS, (Oct 29, 2021) at 23-24.

Simply put, Secretary Mayorkas decided to relinquish operational control of the southern border in order to provide a benefit to certain foreign nationals on the basis of the policy preferences of the Biden Administration. (emphasis added)

Given a choice between America’s children and foreign nationals, Democrats and President Biden have clearly expressed their preference for foreign nationals.

THE CONSTITUTIONAL RIGHT OF GOVERNOR ABBOTT ON BEHALF OF THE STATE OF TEXAS ARE SUPERIOR TO THE ADMINISTRATIVE RIGHT OF DHS TO CONTROL SECURITY OVER THE SOUTHERN BORDER

Under Chapter V of the Convention, in order to protect the Citizens of the State of Texas from Genocide, Governor Abbott has not only the clear right but the clear obligation to adopt Texas state legislation to stop the Genocide. That right is clearly superior to any administrative powers DHS has under the Administrative Procedures Act. This right is reserved to the state under Article V and under the Treaty signed by the United States and ratified by the Senate, Congress has no power to interfere with the decision of the State of Texas as to how to protect its citizens. For this Court to interfere with the exercise of Texas' right, it would not only have to show the legislation was arbitrary and capricious but would also have to find an equally effective legislative way to achieve the desired result. No such legislative way has been suggested.

Nor is the right of Texas limited to the Convention. Under the Tenth Amendment Police Powers are reserved to the states and the Supreme Court has repeatedly held that health care is one of the police powers specifically reserved to the States. *Linder v. U.S.*, 268 U.S. 5, 18 (1925); *Chicago B. & Q. Railway v. Ill. ex rel Drainage Comm.*, supra.; *Jacobson v. Massachusetts*, 197 U.S. 11, 25 (1905); *Barbier v. Connolly*, 113 U.S. 27, 31-32 (1885); *Zahl v. Harper*, 282 F.3d 204 (3rd Cir. 2002); *West Virginia v. U.S. Dept. of H.H.S.*, 289 F.3d 281, 295 (4th Cir. 2002)(health care is subject matter generally reserved to the states); *Doe v. State of Connecticut, Dept. of Health Services*, 75 F.3d 81,85 (2d Cir. 1996), affirmed, 401 U.S. 985 (1970)(State has important interest in regulating and controlling practice of medicine); *F.T.C. v. Simeon Management Corporation*, 391 F.Supp. 697, 705,


affirmed, 532 F.2d 708 (1975)(The direct control of medical practice has been left to the states and is beyond the power of the federal government citing *Linder v. U.S.*; *Geiger v. Jenkins*, 316 F. . 370, 373-74 (N.D. Ga. 1970)). And although the State of Texas has chosen not to champion its 10th Amendment rights, the Appellants have standing to assert the state's 10th Amendment protection despite the state's failure to do so. *New York v. United States*, 505 U.S. 144, 187-188 (1992) (state police powers are reserved to the states and protected by the Constitution principally as a protection for the individuals)

The same is true under Article V of the Convention. The Convention clearly is designed people, not States. Although Texas has not invoke its Power to prevent Genocide, the Petitioner herein has the standing to claim the protection under the Convention which Texas did not do. The Biden administration is clearly guilty of Genocide and its revocation of MPP clearly proves it is intent on committing Genocide again.

CONCLUSION

Joseph Biden must be found GUILTY of a Crime against Humanity and Genocide. At that point, the Complaint must be dismissed.

Dated: April 17, 2024


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CERTIFICATION

The Movant hereby certifies that a copy of this Memorandum of Law and the accompanying Appendix were served upon the counsel for the United States and the State of Texas by U.S. Mail, Postage-Prepaid on April 17, 2024 at the following addresses:

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